

## TARRANT REGIONAL WATER DISTRICT

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April 23, 2010

VIA E-Mail: Douglas.J.Wade@usace.army.mil

U.S. Army Corps of Engineers  
Attn: CECW-CE  
Douglas J. Wade  
441 G Street NW  
Washington, DC 20314-1000

Attention: Docket ID No. COE-2010-0007

Subject: Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls

Dear Mr. Wade,

Tarrant Regional Water District (TRWD) hereby submits comments on the U.S. Army Corps of Engineers' (USACE) proposed updates to the process for requesting a variance from vegetation standards for levees and floodwalls, as published in the Federal Register, February 9, 2010.

For more than 80 years, the Tarrant Regional Water District has provided quality water to its customers, implemented vital flood control measures and created recreational opportunities for Tarrant County residents and their communities.

Led by a publicly elected five-member board, the Water District owns and operates four major reservoirs in the area, including Lake Bridgeport, Eagle Mountain Lake, Cedar Creek and Richland-Chambers Reservoirs. It also has constructed more than 150 miles of water pipelines, 27 miles of floodway levees, more than 40 miles of Trinity River Trails and a 450-acre wetland water reuse project aimed at increasing future water supplies for the area.

### Pre-existing variance approvals

Section 1, p. 6364 states "All vegetation variances, both new and existing, are required to seek approval through the process described in this policy guidance letter." The revocation of an existing variance adds undue burden to the taxpayers of the project sponsor. Reliance has been placed on properly granted

variances. If all periodic inspections following the grant of a variance do not determine planned vegetation as being detrimental to the safety, structural integrity, and functionality of the levee or hinder accessibility for maintenance, inspection, monitoring, and flood-fighting, then the project sponsor should not be put through the unnecessary cost and time of re-applying for a variance. We are not suggesting that all existing variances be grandfathered. We are suggesting that only those existing variances that have been identified through new or superior technology as causing a deficiency be re-evaluated through this proposed process.

It also raises several questions. If a variance application is made for an area with pre-existing vegetation (which had been previously acknowledged and approved by USACE), and the variance application is denied, what is the consequence? Is there an appeals process? What is the recourse for the local agency?

### **Definition of a Levee System**

Section 5, p. 6365: This definition does not take into account that approved routine maintenance by a project sponsor may have enhanced the levee system by increasing channel capacity, filling the backside of levees and reducing levee slopes for better maintenance and stability. If a levee segment has been enhanced from the original design (with the approval of USACE) and is now overbuilt, then the approval process should have flexibility to consider such levee enhancements.

### **Variance approval process**

Section 6, p. 6365: We question the need for six reviews at three different USACE levels of the same material. It would seem one technical review (including, but not limited to, a 30-day review for completeness of the application, so that the requesting agency can provide additional material as needed in a timely manner), with a limit of 90 days would suffice. This review should be done by the District Levee Safety Officer (LSO) who will have the most familiarity with local conditions. By having the Agency Technical Review (ATR) approved or disapproved at the district level, an appeals process can be formulated through Division and HQUSACE. If HQUSACE does not act within a prescribed period of time for an appeal (say 180 days), a variance request should be deemed concluded and approved.

Section 6b, p. 6365: What happens if a USACE District lacks funds to review requests?

Section 7a, p 6365 requires the District counsel to be involved in the drafting of the Vegetation Variance Request and Agreement form. We are concerned that the local sponsor may not have the attention of the District counsel before the District LSO has reviewed the request for completeness and compliance.

### **Special Considerations**

The proposed guideline, as currently written, disallows variances for any woody vegetation on nearly the entire levee structure. Section 1. *Purpose* states that the policy guidance letters revises the **procedure** for obtaining variances. Disallowing woody vegetation in a wholesale manner seems to be much more of a **substantive** change than a procedural one.

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We have reviewed studies showing vegetation can enhance levee safety. The report *"Levee Armoring: Woody Biotechnical Considerations for Strengthening Midwest Levee Systems"*, Douglas Wallace, Clifford Baumer, John Dwyer and Frank Hershey, presented at the Restoration of Aquatic Ecosystems symposium, the Association of State Wetland Managers, St. Paul, Minnesota, June 20-23, 1994" demonstrated that during the catastrophic flooding of the Mississippi, levees with vegetation had a better survival rate than those without.

Additionally, USACE is involved in the California Central Valley Levees Roundtable, which is working to better understand the effects of vegetation on levees. There is no consideration given in the variance process to the studies and ongoing research that will identify appropriate engineering actions to mitigate leaving select vegetation on levees.

Thank you for the opportunity to comment on the proposed process. We look forward to your response.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JMA', with a long horizontal flourish extending to the right.

James M. Oliver  
General Manager